

REMARKS

Favorable reconsideration of this application in light of the above amendments and the following remarks is respectfully requested.

Claims 1-12 are pending within this application. Claims 1-2 and 7-8 are amended herein. No claims have been allowed.

Claim Rejections -- 35 U.S.C. § 102

Claims 1-2, 4-8 and 10-12 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Athavale et al. (U.S. Patent No. 6,539,386; hereinafter "Athavale").

Athavale (abstract, cover figure and paragraph bridging cols. 7-8)) discloses a method and system for modifying a customer order. The system comprises a customer computer 22 connected to a network commerce server 26 with additional access to an order database server 28 that in turn controls a manufacturing and distribution facility 56. The method provides that a customer employs an ordering application 42 installed on the customer computer 22 to access a change order engine 44 installed on the network commerce server 26. Proposed changes are evaluated and approved by a customer prior to implementation within an order entry application 46 within the order database server 28.

Within the paragraph bridging pages 2-3 of the office action mailed 25 August 2003, the Examiner reads the teachings of Athavale upon the above enumerated claims

In response, applicant has: (1) (a) amended claim 1 to incorporate a limitation from claim 3; and (b) amended claim 7 to incorporate a limitations from claim 9; and (2) (a)

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amended claim 2 to incorporate the limitations of claim 1 and delete certain other limitations; and (b) amended claim 8 to incorporate the limitations of claim 7 and delete certain other limitations, to provide within amended claims 1- 2 and 7-8 limitations that applicant believes to patentably distinguish applicant's invention from that which is taught within Athavale. The limitation newly incorporated into amended claim 1 and amended claim 7 is that applicant's method and system are employed within the context of a microelectronic fabrication facility. The amendments to amended claim 2 and amended claim 8 provide that applicant's method and system are employed within the context of a chemical work in process workload lot.

At page 3, first bullet item of the office action mailed 25 August 2003, the Examiner cites Athavale at col. 10, lines 18-33 as teaching various fabrication facilities within which Athavale's invention may be employed. In addition, the Examiner at page 4, first paragraph of the office action mailed 25 August 2003 acknowledges that Athavale's invention is not disclosed within the context of a microelectronic fabrication facility. Applicant asserts that a chemical fabrication facility is also not taught within Athavale at col. 10, lines 18-33.

Thus, since each and every limitation within applicant's invention as disclosed and claimed within amended claims 1-2 and 7-8 is not taught within Athavale, in particular with respect to implementation of Athavale's method and system within a microelectronic fabrication facility or chemical fabrication facility, applicant asserts that amended claims 1-2 and 7-8 may not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Athavale.

Since all remaining claims within the foregoing rejections are dependent upon amended claim 1 or amended claim 7 and carry all of the limitations thereof, applicant asserts

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that those remaining claims may also not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Athavale.

In light of the foregoing response, applicant respectfully requests that the Examiner's rejections of claims 1-2, 4-8 and 10-12 under 35 U.S.C. § 102(e) as being anticipated by Athavale be withdrawn.

Claim Rejections — 35 U.S.C. § 103

Claims 3 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Athavale in view of Chacon (U.S. Patent No. 6,128,588).

Incident to amendment of claim 1 and claim 7, the foregoing rejection may presumably be recast in terms of a rejection of amended claim 1 and amended claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Athavale in view of Chacon.

Chacon (abstract) teaches a semiconductor fabrication production control scheduling system that provides a simulation tool integrated with a manufacturing execution system. The production control scheduling system thus allows for simulation of production control scenarios as an alternative to experimentation on semiconductor product production.

At page 4, first paragraph of the office action mailed 25 August 2003, the Examiner rationalizes suggestion or motivation for modification or combination of Athavale with Chacon upon the predicate that it would be desirable to provide an improved semiconductor fabrication facility wherein customers have access to their orders and thereby change their orders during the manufacturing process.

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In response, applicant in a first instance asserts that the Examiner's rationalization for suggestion or motivation for modification or combination of Athavale with Chacon is certainly not taught or suggested within Athavale since the Examiner at page 4, first paragraph of the office action mailed 25 August 2003 acknowledges that Athavale neither discloses nor suggests that microelectronic fabrication facilities may employ Athavale's invention.

In a second instance, while Chacon does disclose a production control system implemented within the context of a microelectronic fabrication facility, applicant is also unable to locate within Chacon a teaching or suggestion of customer access and control of the production control system. Similarly, the Examiner has apparently not provided a citation to a passage within Chacon where such a teaching or suggestion may be found. See MPEP 706.02(j).

Applicant is thus left with the observation that the Examiner's rationalization for suggestion or motivation for modification or combination of Athavale with Chacon derives solely from applicant's disclosure (see, e.g., paragraph 0018-0019). Since a suggestion or motivation for modification or combination of references for rejecting an applicant's claims to the applicant's invention under 35 U.S.C. § 103 may not properly derive from the applicant's disclosure, applicant asserts that claims 3 and 9 (or alternatively amended claim 1 and amended claim 7), may not properly be rejected under 35 U.S.C. § 103(a) as being unpatentable over Athavale in view of Chacon.

"The teaching or suggestion to make the [applicant's] claimed combination . . . must . . . be found in the prior art, and not in applicant's disclosure." MPEP 2143 (citing *In re Vaeck* (citations omitted)).

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In light of the foregoing response, applicant respectfully requests that the Examiner's rejections of claims 3 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Athavale in view of Chacon be withdrawn.

Other Considerations

Applicant acknowledges the additional prior art of record cited by the Examiner on Form PTO-892, but not employed in rejecting applicant's claims to applicant's invention, as generally pertinent to applicant's invention.

A fee is due as a result of this amendment and response. The Commissioner is authorized to charge Deposit Account No. 50-0484 the fee due.

SUMMARY

Applicant's invention as disclosed and claimed within amended claims 1-2 and amended claim 7-8 is directed towards a method and a system for managing a work in process workload. The method and the system allow for customer access to change production parameters of the work in process workload. The work in process workload is a microelectronic fabrication work in process workload or a chemical work in process workload. The prior art may not properly be combined to provide applicant's claimed invention. .

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CONCLUSION

On the basis of the above amendments and remarks, reconsideration of this application, and its early allowance, are respectfully requested.

Any inquiries relating to this or earlier communications pertaining to this application may be directed to the undersigned attorney at 248-540-4040.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Randy W. Tung', is written over a large, loopy circular mark.

Randy W. Tung (Reg. No. 31,311)

838 West Long Lake Road - Suite 120
Bloomfield Hills, MI 48302
248-540-4040 (voice)
248-540-4035 (facsimile)